

**STATE OF TENNESSEE**  
**PUBLIC CHAPTER NO. 530**  
**SENATE BILL NO. 2318**

**By Kyle**

Substituted for: House Bill No. 2275

By Fitzhugh, Mike Turner

AN ACT to amend Tennessee Code Annotated, Title 7, Title 54, Title 55, and Title 67; Chapter 602 of the Public Acts of 2007; and Chapter 1106 of the Public Acts of 2008, relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2109, is amended by deleting subsection (a), subsection (b), and subsection (c), and by substituting instead the following:

(a) As used in subsection (b) of this section:

(1) "Best interests of the state" includes, but is not limited to, a determination by the Commissioner of Revenue and the Commissioner of Economic and Community Development that the capital investment or jobs are a result of the credit provided in this section;

(2)(A) "Enhancement county" means a county that meets one (1) of the following criteria for any month during the twenty-four (24) months immediately prior to the creation of any qualified job for which a job tax credit is sought pursuant to this subsection, based on monthly statistics from the Department of Labor and Workforce Development:

(i) The average number of dislocated workers in the county exceeds the average number of dislocated workers in Tennessee; or

(ii) The per capita income of the county is less than Tennessee's average per capita income;

(B) Notwithstanding subdivision (a)(2)(A), based on an annual evaluation as of July 1 of each year, the Commissioner of Economic and Community Development may determine that a county qualifies as an enhancement county if the county experiences substantial characteristics of economic distress, including, but not limited to, major loss of employment, recent high unemployment rates, traditionally low levels of family incomes,

high levels of poverty and high concentrations of employment in declining industries.

(C) Upon determining that a county qualifies as an enhancement county under subdivision (a)(2)(A) or (a)(2)(B), the Department of Economic and Community Development shall designate the county as a tier one (1), tier two (2), or tier three (3) enhancement county based on unemployment, per capita income, and poverty levels of all Tennessee counties using statistical data prepared by any agency of the state or federal government no later than July 1 of each year. A list of all tier one (1), tier two (2), and tier three (3) enhancement counties shall be published annually by the Department of Economic and Community Development;

(3) "Industrial wage job" means a qualified job with wages equal to or greater than the state's average occupational wage, as defined in § 67-4-2004, for the month of January of the year during which the job was created;

(4) "Investment period" means the period during which qualified jobs are created as a result of the required capital investment; provided, however, that such period shall not exceed three (3) years from the effective date of the business plan;

(5) "Qualified business enterprise" means an enterprise:

(A) In which the business has made the required capital investment necessary to permit the creation or expansion of manufacturing, warehousing and distribution, processing tangible personal property, research and development, computer services, call centers, headquarters facilities as defined in § 67-6-224(b), or convention or trade show facilities;

(B) In which the business has made the required capital investment necessary to permit the creation or expansion of a repair service facility primarily engaged in providing repairs for aircraft owned by unrelated commercial, governmental or foreign persons; or

(C) That promotes high-skill, high-wage jobs in high-technology areas, emerging occupations or skilled manufacturing jobs in which the business has made the required capital investment in an enhancement county necessary to permit an increase in the number of qualified jobs in that county and that receives an approval from the Commissioner of Revenue and the Commissioner of Economic and Community Development in a manner prescribed by the Department of Revenue;

(6) "Qualified job" means a job that meets all of the following criteria:

(A) The job position is a permanent, rather than seasonal or part-time, employment position providing employment in a qualified business enterprise for at least twelve (12) consecutive months to a person for at least thirty-seven and one-half (37½) hours per week with minimum health care, as described in Title 56, Chapter 7, Part 22;

(B) The job position is newly created in Tennessee and, for at least ninety (90) days prior to being filled by the taxpayer, did not exist in Tennessee as a job position of the taxpayer or of another business entity;

(C) The job position is filled; provided, however, that a position will be deemed filled if it subsequently becomes vacant but is refilled within a period of not more than ninety (90) days; and

(D) The job position is filled prior to January 1, 2016; and

(7) "Required capital investment", except for convention or trade show enterprises, means an investment of five hundred thousand dollars (\$500,000) in real property, tangible personal property, or computer software owned or leased in Tennessee valued in accordance with generally accepted accounting principles. For businesses engaged in convention or trade show enterprises, "required capital investment" means an investment of ten million dollars (\$10,000,000) in such property in the same manner described for other enterprises. A capital investment shall be deemed to have been made as of the date of payment or the date the business enterprise enters into a legally binding commitment or contract for purchase or construction.

(b)(1) Job Tax Credit – General Provisions.

(A) Subject to the requirements set forth in this subsection, there shall be allowed, to any qualified business enterprise that makes the required capital investment, a credit equal to four thousand five hundred dollars (\$4,500) for each qualified job created during the investment period.

(B) The qualified business enterprise shall file a business plan with the commissioner in order to qualify for the credit provided by this subsection. The business plan shall be filed in a manner prescribed by the commissioner and shall describe the investment to be made, the number of jobs the investment will create, the expected dates such jobs will be filled, and the effective date of the plan.

(C) In order to qualify for the credit, the qualified business enterprise must, within twelve months of the effective date of the business plan, make the required capital investment and create at least twenty-five (25) qualified jobs.

(D) The credit shall apply against the franchise tax imposed by this part and the excise tax imposed by Part 20 of this chapter; provided, however, that the credit, together with any carry-forward thereof, taken on any franchise and excise tax return shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown on the return before any credit is taken. Any unused credit may be carried forward in any tax period until the credit is taken; provided, however, that the credit may not be carried forward for more than fifteen (15) years.

(E) The Commissioner of Revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the findings contained within the business plan, and to determine that the business enterprise has complied with all statutory requirements so as to be entitled to the credit.

(F) Nothing in this subsection shall require that the taxpayer establish its commercial domicile in this state in order to receive the credit provided in this subsection.

(2) Job Tax Credit – Additional Annual Credit.

In addition to the credit allowed in subdivision (b)(1), the following tax credit shall be allowed in the circumstances described, provided, that the taxpayer otherwise meets all of the requirements of subdivision (b)(1):

(A) If the qualified business enterprise is located in a tier two (2) or tier three (3) enhancement county, an annual credit shall be allowed as follows:

(i) If the qualified business enterprise is located in a tier two (2) enhancement county, the additional annual credit shall be allowed for a period of three (3) years beginning with the first tax year after the initial job tax credit is created.

(ii) If the qualified business enterprise is located in a tier three (3) enhancement county, the additional annual credit shall be allowed for a period of five (5) years beginning with the first tax year after the initial job tax credit is created.

(iii) The additional annual credit shall equal four thousand five hundred dollars (\$4,500) for each qualified job, provided, that the job remains filled by employees during the year in which the credit is being taken. This annual credit may be used to offset up to one hundred percent (100%) of the taxpayer's franchise and excise tax liability for that year. Any unused annual credit, however,

shall not be carried forward beyond the year in which the credit originated.

(B) If the qualified business enterprise involves a higher level of investment and job creation, as specifically described below, an annual credit shall be allowed as follows:

(i) If the investment exceeds one billion dollars (\$1,000,000,000) and at least five hundred (500) industrial wage jobs are created, the additional annual credit shall be allowed for a period of twenty (20) years beginning with the first tax year after the initial job tax credit is created.

(ii) If the investment exceeds five hundred million dollars (\$500,000,000) and at least five hundred (500) industrial wage jobs are created, the additional annual credit shall be allowed for a period of twelve (12) years beginning with the first tax year after the initial job tax credit is created.

(iii) If the investment exceeds two hundred fifty million dollars (\$250,000,000) and at least two hundred fifty (250) industrial wage jobs are created, the additional annual credit shall be allowed for a period of six (6) years beginning with the first tax year after the initial job tax credit is created. An integrated supplier, as defined in § 67-4-2004, shall qualify for the credit provided in this subdivision (b)(2)(B)(iii), regardless of the level of its capital investment or the number of jobs created.

(iv) If the investment exceeds one hundred million dollars (\$100,000,000) and at least one hundred (100) industrial wage jobs are created, the additional annual credit shall be allowed for a period of three (3) years beginning with the first tax year after the initial job tax credit is created.

(v) If the investment exceeds ten million dollars (\$10,000,000) and at least one hundred (100) qualified jobs are created that also meet the definition of "headquarters staff employees" under § 67-6-224 and pay at least one hundred fifty percent (150%) of the state's average occupational wage for the month of January of the year in which the jobs are created, the additional annual credit shall be allowed for a period of three (3) years beginning with the first tax year after the initial job tax credit is created.

(vi) The additional annual credit shall equal five thousand dollars (\$5,000) for each job specifically described in subdivisions (b)(2)(B)(i) through (b)(2)(B)(v),

provided, that the jobs remain filled during the year in which the credit is being taken. This annual credit may be used to offset up to one hundred percent (100%) of the taxpayer's franchise and excise tax liability for that year. Any unused annual credit, however, shall not be carried forward beyond the year in which the credit originated.

(vii) The taxpayer shall be allowed a period not to exceed three (3) years from the effective date of the business plan in order to make the required capital investment necessary to qualify for the additional annual credit allowed under this subdivision (b)(2)(B). If determined to be in the best interests of the state, the three-year period for making the required investment may be extended by the Commissioner of Economic and Community Development for a reasonable period not to exceed two (2) additional years, or four (4) additional years if the investment exceeds one billion dollars (\$1,000,000,000).

### (3) Job Tax Credit – Special Provisions.

The provisions of this subdivision (b)(3) shall serve as exceptions to the provisions of subdivisions (b)(1) and (b)(2) of this subsection. To the extent a conflict exists between the provisions of this subdivision and the provisions of subdivision (b)(1) or (b)(2), the provisions of this subdivision shall control. Otherwise, all provisions of subdivisions (b)(1) and (b)(2) shall apply to any credits provided under this subsection (b):

(A) The job tax credit allowed in subdivision (b)(1) shall be increased from four thousand five hundred dollars (\$4,500) to five thousand dollars (\$5,000) if the qualified business enterprise qualifies for the additional annual credit allowed in subdivision (b)(2)(B).

(B) If determined to be in the best interests of the state, the commissioner is authorized to allow the credit to a qualified business enterprise that is located in an enhancement county upon the creation of less than twenty-five (25) qualified jobs. The Commissioner of Revenue and the Commissioner of Economic and Community Development shall determine the number of qualified jobs necessary for the taxpayer to receive the credit.

(C) If the qualified business enterprise is located in a tier two (2) enhancement county, the taxpayer shall have three (3) years in order to create the minimum number of qualified jobs necessary to receive the credit. If the qualified business enterprise is located in a tier three (3) enhancement county, the taxpayer shall have five (5) years to create the minimum number of qualified jobs necessary to receive the credit.

(D) If the required capital investment exceeds one billion dollars (\$1,000,000,000), the time limitations otherwise applicable to the carry-forward of unused job tax credits under subdivision (b)(1)(D) and subdivision (b)(2)(B)(vi) shall not apply, and any unused credit may be carried forward until fully utilized, if the Commissioner of Revenue and the Commissioner of Economic and Community Development have determined that the allowance of such additional carry-forward is in the best interests of the state.

(E) The Commissioner of Revenue, with the approval of the Commissioner of Economic and Community Development, is authorized to approve job tax credit in cases where the newly created position existed in this state as a job position of the taxpayer or of another business entity less than ninety (90) days prior to being filled by the taxpayer, provided, that all other requirements to obtain the credit have been satisfied by the taxpayer and provided, further, that the Commissioner of Revenue and the Commissioner of Economic and Community Development have determined that allowance of the credit is in the best interests of the state.

(F) A taxpayer that has established its international, national, or regional headquarters in this state and has met the requirements to qualify for the credit provided in § 67-6-224, or a taxpayer that has established an international, national, or regional warehousing or distribution hub in this state and has met the requirements to be a qualified new or expanded warehouse or distribution facility, shall be allowed to offset up to one hundred percent (100%) of its franchise and/or excise tax liability by job tax credits earned and not expended as of June 1, 2006, or any carry-forward of the job tax credits, if the Commissioner of Revenue and the Commissioner of Economic and Community Development determine that increasing the percentage of offset permitted to the taxpayer is in the best interests of the state. The Commissioner of Revenue and the Commissioner of Economic and Community Development shall determine the percentage of franchise and/or excise tax liability allowed to be offset above that otherwise allowed by subdivision (b)(1) and the period during which the increased offset shall continue.

(G) The credits otherwise provided in this subsection shall be allowed for new high-skill, high-wage, qualified jobs in high-technology areas, emerging occupations, or skilled manufacturing, regardless of whether net employment is increased; provided, however, that this subdivision shall apply only to new jobs created by a taxpayer who failed to meet the net increase requirement due to worker layoffs or reductions, where such workers have been certified by the Federal Department of Labor's division of trade adjustment assistance, as having been adversely affected by foreign trade, so as to be eligible for assistance in accordance with the federal Trade Adjustment Assistance Reform Act of 2002.

A taxpayer seeking qualification for jobs tax credits under this subsection shall be required to satisfy all other requirements of this subsection, and shall be required to provide evidence to the Commissioner of Revenue of the Department of Labor's certification of eligibility for assistance for the taxpayer's adversely affected worker group.

(H) The credits provided by this subsection may be computed by a general partnership that establishes and operates a call center in Tennessee that is placed in service by such general partnership on or after June 30, 2003, and that would otherwise qualify for the job tax credit provided in this subsection; provided, that such credit shall first apply in the tax year in which the qualified business enterprise increases net full-time employment by four hundred (400) or more jobs, and shall then apply in those subsequent fiscal years in which further net increases occur above the level of employment established when the credit was last taken. The credit provided in this subsection may also be computed by a general partnership that has established an international, national or regional headquarters in this state that meets the definition of a qualified headquarters facility under § 67-6-224 and would otherwise qualify for the job tax credits provided in this subsection. The amount of the credit shall be computed under the provisions of this subsection as if the general partnership were subject to franchise and excise tax under Parts 20 and 21 of this chapter. With respect to the general partnership tax year during which a credit is so computed, a partner in such general partnership that is subject to Tennessee franchise and excise tax and that directly holds a first tier ownership interest in such general partnership may take a percentage of such credit that equals the total amount of such credit for the general partnership multiplied by such partner's percentage interest in the general partnership on the last day of such general partnership tax year against such partner's franchise and excise tax liability for such partner's tax year that includes such last day. The job tax credit passed through from the general partnership to the first tier partner under this subsection shall, in the hands of the first tier partner, be subject to applicable provisions and limitations otherwise provided by this subsection, including carry-forward provisions; provided, that in no case shall the credit or a carryover thereof be taken by a business entity, unless it was a partner in the general partnership and subject to franchise and excise tax at the time the credit was earned by the general partnership.

(c) In accordance with § 56-4-217, there shall be credited upon the tax imposed by this part the net amount of gross premiums tax paid that is measured by a period that corresponds to the franchise tax period on which the return is based, plus any amount used to offset payment to the Tennessee guaranty association that has not otherwise been recovered, but not including the gross



premiums receipts tax paid by fire insurance companies for the purpose of executing the fire marshal law.

SECTION 2. Tennessee Code Annotated, Section 67-4-2009, is amended by deleting subdivision (3) in its entirety.

SECTION 3. Tennessee Code Annotated, Section 67-4-2006(c)(6), is amended by deleting the language "§ 67-4-2109(c)(2)(H)" and by substituting instead the language "§ 67-4-2109(b)(2)(B)(i)".

SECTION 4. Tennessee Code Annotated, Section 67-4-2006(c)(7), is amended by deleting the language "§ 67-4-2109(c)(2)(I)(i), (c)(2)(I)(ii) or (c)(2)(I)(iii)" and by substituting instead the language "§ 67-4-2109(b)(2)(B)(ii), (b)(2)(B)(iii), or (b)(2)(B)(iv)".

SECTION 5. Tennessee Code Annotated, Section 67-4-2009(4)(I), is amended by deleting the language "§ 67-4-2109(c)" wherever it appears and by substituting instead the language "§ 67-4-2109(b)".

SECTION 6. Tennessee Code Annotated, Section 67-4-2009(4)(A)(ii), is amended by deleting the language "§ 67-4-2109(c)(1)" and by substituting instead the language "§ 67-4-2109(a)" and is further amended by deleting the language "§ 67-4-2109(c)" and by substituting instead the language "§ 67-4-2109(b)".

SECTION 7. Tennessee Code Annotated, Section 67-4-2009(4)(G), is amended by deleting the language "§ 67-4-2109(c)(3)" and by substituting instead the language "§ 67-4-2109(b)(3)(H)".

SECTION 8. Tennessee Code Annotated, Section 67-6-102(35), is amended by deleting the language "§ 67-4-2109(c)" and by substituting instead the language "§ 67-4-2109(b)".

SECTION 9. Tennessee Code Annotated, Section 67-6-224(c), is amended by deleting the language "§ 67-4-2109(c)(3)" and by substituting instead the language "67-4-2109(b)(3)(H)" and is further amended by deleting the language "§ 67-4-2109(a)-(c)" and by substituting instead the language "§ 67-4-2109(b)-(c)".

SECTION 10. Tennessee Code Annotated, Section 67-6-232(c), is amended by deleting the language "§ 67-4-2109(a)-(c)" and by substituting instead the language "§ 67-4-2109(b)-(c)".

SECTION 11. Tennessee Code Annotated, Section 67-6-394(c)(2), is amended by deleting the language "§ 67-4-2109(c)(2)(H)" and by substituting instead the language "67-4-2109(b)(2)(B)(i)".

SECTION 12. Tennessee Code Annotated, Section 55-17-123(d)(2), is amended by deleting the language "§ 67-4-2109(c)(2)(H)" and by substituting instead the language "67-4-2109(b)(2)(B)(i)".

SECTION 13. Tennessee Code Annotated, Section 55-17-123(e)(1), is amended by deleting the language "§ 67-4-2109(c)(1)(B)" and by substituting instead the language "67-4-2109(a)(6)".

SECTION 14. Tennessee Code Annotated, Section 67-4-2108(a)(6), is amended by deleting subdivision (G) and by substituting instead the following:

(G) "Exempt required capital investments" means two-thirds (2/3) in value of all capital investments that are the basis for a taxpayer's entitlement to credits under § 67-4-2109(b)(2)(B); provided, however, that such investments shall qualify as "exempt required capital investments" only in those tax years in which the additional annual credit is actually allowed under § 67-4-2109(b)(2)(B).

SECTION 15. Tennessee Code Annotated, Section 67-4-2009(4)(C), is amended by deleting the subsection in its entirety and substituting instead the following:

(C) Any unused credit may be carried forward in any tax period until the credit is taken; however, the credit may not be carried forward for more than fifteen (15) years. If the taxpayer qualifies for the credit provided in subdivision (4)(l)(i), the fifteen (15) year limitation otherwise applicable to the carry-forward of unused credit shall not apply, provided, the Commissioner of Economic and Community Development and the Commissioner of Revenue have determined that the allowance of such additional carry-forward is in the best interest of the state.

SECTION 16. Tennessee Code Annotated, Section 67-4-2109(h)(2), is amended by deleting subdivision (E) in its entirety and by substituting instead the following:

(E) The taxpayer creates at least five hundred (500) net new full-time employee jobs in connection with a capital investment in excess of one billion dollars (\$1,000,000,000).

SECTION 17. Tennessee Code Annotated, Section 67-4-2109(h)(3)(E), is amended by deleting the language "fifty thousand dollars (\$50,000)" and by substituting instead the language "one hundred thousand dollars (\$100,000)".

SECTION 18. Tennessee Code Annotated, Section 67-6-102(68), is amended by deleting the second sentence and by substituting instead the following language:

For purposes of this subdivision, "required capital investment" means an increase of a business investment in real property, tangible personal property, or computer software owned or leased in the state, valued in accordance with generally accepted accounting principles.

SECTION 19. Tennessee Code Annotated, Section 67-6-224(b)(7), is amended by deleting the language in subdivision (B) and substituting instead the following:

(B) The minimum investment may include, but is not limited to, the purchase price of an existing building and the cost of building materials, labor, equipment, furniture, fixtures, computer software, parking facilities, and landscaping, but shall not include land or inventory;

SECTION 20. Tennessee Code Annotated, Section 67-6-224(b), is amended by deleting the first sentence of subdivision (11) and by substituting instead the following language:

"Qualified tangible personal property" means building materials, machinery, equipment, furniture, and fixtures used exclusively in the qualified headquarters facility and purchased or leased during the investment period and computer software used primarily in the qualified headquarters facility and purchased or leased during the investment period.

SECTION 21. Tennessee Code Annotated, Section 67-6-232(b)(5), is amended by designating the current language as subdivision (A) and by adding the following language as a new subdivision (B):

(B) The minimum investment may include, but is not limited to, the purchase price of an existing building and the cost of building materials, labor, equipment, furniture, fixtures, computer software, parking facilities, and landscaping, but shall not include land or inventory;

SECTION 22. Tennessee Code Annotated, Section 67-6-232(b), is amended by deleting the first sentence of subdivision (7) and by substituting instead the following language:

"Qualified tangible personal property" means building materials, machinery, equipment, furniture, and fixtures used exclusively in the qualified facility and purchased or leased during the investment period and computer software used primarily in the qualified facility and purchased or leased during the investment period.

SECTION 23. Tennessee Code Annotated, Section 67-4-2009(4)(l)(vii), is amended by deleting subdivisions (b) and (c) and by substituting instead the following:

(b) "Investment period" means a period not to exceed three (3) years from the filing of the business plan related to the required capital investment, during which the required capital investment must be made. The three-year period for making the required capital investment may, for good cause shown, be extended by the Commissioner of Economic and Community Development for a reasonable period not to exceed four (4) years for a taxpayer that meets the requirements of subdivision (4)(l)(i) and not to exceed two (2) years for any other taxpayer; and

(c) "Required capital investment" means an increase of a business investment in real property, tangible personal property, or computer software owned or leased in this state valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction;

SECTION 24. Tennessee Code Annotated, Section 67-6-102(68), is amended by deleting the language "not to exceed two (2) years" and by substituting instead the language "not to exceed four (4) years".

SECTION 25. Tennessee Code Annotated, Section 67-6-232(b), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) "Emerging industry" means an industry that promotes high-skill, high-wage jobs in high-technology areas, emerging occupations, or clean energy technology, including, but not limited to, clean energy technology research and development and installation, as determined by the Commissioner of Revenue and the Commissioner of Economic and Community Development, in a manner prescribed by the Department of Revenue. For the purposes of this section, clean energy technology means technology resulting in energy efficiency, technology used to generate energy from biomass, geothermal, hydrogen, hydropower, landfill gas, nuclear, solar, and wind sources, and technology that is designed to result in the development of advanced coal through carbon capture and sequestration or otherwise any other manner that significantly reduces CO2 emissions per unit of energy generated. Notwithstanding any other provision of this section, businesses engaged in the development and construction of coal fired power plants shall not be eligible for the emerging industry tax credit. "High-wage" means any wage equal to or greater than the wage described in subdivision (b)(5).

and is further amended by deleting the language "exceed six (6) years" from subdivision (3) and by substituting instead the language "exceed eight (8) years".

SECTION 26. Tennessee Code Annotated, Section 67-4-2004, is amended by deleting subdivision (23) and by substituting instead the following:

(23) "Integrated supplier" means a supplier located within the footprint of a project site, as determined by the Commissioner of Economic and Community Development and the Commissioner of Revenue, that provides, from a facility located in the footprint of the project site, goods and/or services on the project site primarily for a manufacturer that is qualified for the credits provided in § 67-4-2109(b)(2)(B)(i) in connection with a required capital investment in excess of one billion dollars (\$1,000,000,000);

and is further amended by adding the following as new, appropriately designated subdivisions:

( ) "Integrated customer" means a customer located within the footprint of a project site, as determined by the Commissioner of Economic and Community Development and the Commissioner of Revenue, that purchases materials from a manufacturer that is qualified for the credits provided in § 67-4-2109(b)(2)(B)(i) in connection with a required capital investment in excess of one billion dollars (\$1,000,000,000) and the credits provided in § 67-4-2109(n)(3). The materials must be an integral part of the customer's manufacturing process and the customer must be approved for this designation by the Commissioner of Economic and Community Development and the Commissioner of Revenue;

( ) "Campus affiliate" means any person within the footprint of a project site, as determined by the Commissioner of Revenue, that (a) directly or indirectly owns a material interest in a person that qualifies for, or (b) controls, is owned or controlled by, or under common control with a person that qualifies for the credits provided in § 67-4-2109(b)(2)(B)(i) in connection with a required capital investment in excess of one billion dollars (\$1,000,000,000) and the credits provided in § 67-4-2109(n)(3). For such purpose (i) "material interest"

means the direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of voting securities or other voting interests representing at least ten percent (10%) of the outstanding voting power or equity securities or other equity interests representing at least ten percent (10%) of the outstanding equity securities, or equity interests; and (ii) "control" (including "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise, and shall be construed as such term is used in the rules promulgated under the Securities Act of 1933, as amended.

SECTION 27. Tennessee Code Annotated, Section 67-4-2109, is amended by deleting subsection (n) in its entirety and by substituting instead the following:

(n)(1) As used in this subsection (n):

(A) "Certified green energy supply chain manufacturer" means any manufacturer that has made, during the investment period, a required capital investment in excess of two hundred and fifty million dollars (\$250,000,000) in constructing, expanding, or remodeling a facility that is certified by the Commissioner of Revenue, the Commissioner of Economic and Community Development, and the Commissioner of Environment and Conservation, in their sole discretion, to be a facility engaged in manufacturing a product that is necessary for the production of green energy;

(B) "Investment period" means a period not to exceed three (3) years from the filing of the business plan related to qualification as a certified green energy supply chain manufacturer, during which the required capital investment must be made;

(C) "Maximum certified rate" means a rate expressed as a price per kilowatt hour for calculating the green energy tax credit allowed in subdivision (n)(3) and shall be established through the issuance of a private letter ruling by the Commissioner of Revenue, which shall be subject to approval by the Commissioner of Economic and Community Development and the Commissioner of Finance and Administration and any such maximum certified rate established for a green energy supply chain manufacturer shall apply to any campus affiliate;

(D) "Carbon charge" means a tax or fee imposed or levied by the federal or state government, the purpose of which is to reduce the emission of greenhouse gases. Such carbon charge may include, but is not limited to, a tax, emission fee or charge, or required purchase of carbon or emission off-sets or credits, whether incurred by or imposed directly on the certified green energy supply chain manufacturer or campus affiliate or imposed

on the Tennessee Valley Authority or other applicable energy provider and billed to the certified green energy supply chain manufacturer or campus affiliate; and

(E) "Charge for electricity sold" means the total delivered cost of electricity sold to the certified green energy supply chain manufacturer or campus affiliate at the point of delivery to the facility. The charge for electricity sold shall be the total amount due as shown on the customer's electricity bills over the applicable tax year. Any carbon charge shall be excluded from the charge for electricity sold to the extent such carbon charge is included in the credit allowed in subdivision (n)(4).

(2) The credits provided in this subsection (n) and any other applicable credits, net operating losses, or carry-forwards thereof provided in this part and in Part 20 of this chapter shall be applied in the following order:

(A) Any credits, net operating losses, or carry-forwards thereof available to the certified green energy supply chain manufacturer, campus affiliate, integrated customer, or integrated supplier pursuant to this part or Part 20 of this chapter, except for those contained in this subsection (n), shall be applied to the taxpayer's tax liability first;

(B) Any green energy tax credit available pursuant to subdivision (n)(3) shall be applied to the taxpayer's liability second and shall be refundable as provided in subdivision (n)(3) if such credit exceeds the taxpayer's remaining liability; and

(C) Any carbon tax credit available pursuant to subdivision (n)(4) shall be applied to the taxpayer's liability third and shall be refundable as provided in subdivision (n)(4) if such credit exceeds the taxpayer's remaining liability.

(3) A certified green energy supply chain manufacturer and campus affiliate, integrated customer, or integrated supplier of a green energy supply chain manufacturer shall be allowed a green energy tax credit, against the sum total of the taxes imposed by the Franchise Tax Law compiled in this part and the Excise Tax Law compiled in Part 20 of this chapter, equal to the amount by which the charge for electricity sold to the certified green energy supply chain manufacturer, campus affiliate, integrated customer, or integrated supplier exceeds the charge that would have been made for such total delivered electricity if the maximum certified rate had been applied during the applicable tax year. The Tennessee Valley Authority, or the applicable energy provider, shall supply such information as deemed necessary by the Commissioner of Revenue to verify the amount of such credit. Consistent with subdivision (n)(2), to the extent that any amount allowed as a credit under this subdivision (n)(3), for any tax year, exceeds the combined tax imposed by this part and by Part 20 of this chapter after the application of all available

credits other than the credit provided in subdivision (n)(4), the amount of such excess shall be considered an overpayment and shall be refunded to the taxpayer; provided, however, that such overpayment and such refund shall not exceed, for any one (1) tax year, an amount equal to one million five hundred thousand dollars (\$1,500,000) for each two hundred and fifty million dollars (\$250,000,000) in capital investments made by the certified green energy supply chain manufacturer. Such refund shall be subject to the procedures of Section 67-1-1802; provided, however, notwithstanding any procedure of Section 67-1-1802 to the contrary, a claim for refund must be filed with the commissioner within three (3) years from December 31 of the year in which the credit provided by this subdivision (n)(3) was incurred. To the extent any amount allowed as a credit under this subdivision (n)(3) is not applied to the taxpayer's liability and is not received by the taxpayer as a refund, such credit may be carried forward in perpetuity until it is claimed as a refund or utilized as a credit by the certified green energy supply chain manufacturer pursuant to the provisions of this subdivision (n)(3). Except for the purpose of receiving a refund or otherwise utilizing credits that have been carried forward, the credit provided for in this subdivision (n)(3) shall cease to be effective on January 1, 2029, and no new credit shall be allowed for tax years ending on or after such date.

(4) A certified green energy supply chain manufacturer and any campus affiliates shall be allowed a carbon charge credit, against the sum total of the taxes imposed by the Franchise Tax Law compiled in this part and the Excise Tax Law compiled in Part 20 of this chapter, equal to any carbon charges incurred by or imposed directly on the certified green energy supply chain manufacturer, campus affiliate, or imposed on the Tennessee Valley Authority or other applicable energy provider and billed to the certified green energy supply chain manufacturer or campus affiliate during the applicable tax year. The Tennessee Valley Authority, or the applicable energy provider, shall supply such information as deemed necessary by the Commissioner of Revenue to verify the amount of such carbon charge credit. Consistent with subdivision (n)(2), to the extent any amount allowed as a carbon charge credit under this subdivision (n)(4) exceeds the combined tax imposed by this part and by Part 20 of this chapter after the application of all other available credits, the amount of such excess shall be considered an overpayment and shall be refunded to the taxpayer. Such refund shall be subject to the procedures of Section 67-1-1802; provided, however, notwithstanding any procedure of Section 67-1-1802 to the contrary, a claim for refund must be filed with the commissioner within three (3) years from December 31 of the year in which the credit provided by this subdivision (n)(4) was incurred.

(5) The investment period for making the required capital investment may be extended by the Commissioner of Economic and Community Development for a reasonable period, not to exceed two (2) years, for good cause shown. For purposes of this subdivision (n)(5), "good cause" includes, but is not limited to, a determination by the Commissioner of Economic and Community Development that the capital investment is a result of the credit provided in this subsection (n).

SECTION 28. Tennessee Code Annotated, Section 67-4-2008(a)(11)(B), is amended by deleting the word "rents" from subdivision (iii) and by substituting instead the words "rents from residential property or farm property" and is further amended by adding the following new subdivisions:

(iv) "Farm property" and "residential property" shall have the same meaning as in § 67-5-501, except that "residential property" shall include any property leased or rented for residential purposes that includes not more than four (4) residential units and "farm property" shall not include acreage used for recreational purposes by clubs including golf course playing hole improvements;

(v) Ownership units that are held in trust shall not be treated as owned by members of the family, unless such ownership units are property of a trust described in subdivision (a)(11)(B)(i)(e);

SECTION 29. Tennessee Code Annotated, Section 67-4-2008(a)(9), is amended by deleting subdivision (C) in its entirety and by substituting instead the following:

(C) For tax years beginning on or after July 1, 2008, but before October 1, 2009, the appropriate documentation, as required in subsections (b)-(d), shall be filed on or before October 1, 2009, with the secretary of state. For all other tax years, the appropriate documentation, as required in subsections (b)-(d), shall be filed on or before the first day of the taxable year for which a return is filed;

SECTION 30. Tennessee Code Annotated, Section 67-4-2006(b)(1), is amended by deleting the word "and" at the end of subdivision (L) and is further amended by deleting the period at the end of subdivision (M) and by substituting instead the language "; and" and is further amended by adding the following language as a new subdivision (N):

(N) Any amount in excess of reasonable rent that is paid, accrued, or incurred for the rental, leasing, or comparable use of industrial and commercial property owned by an affiliate, whether or not such affiliate is subject to the tax imposed by this part. For purposes of this subdivision (N), "industrial and commercial property" shall have the same meaning as in § 67-5-501 and "reasonable rent" means rent that does not exceed two percent (2%) per month of the appraised value of the property under Chapter 5 of this title. When any person fails to make the adjustment to net earnings or net losses required by this subdivision (N) and such failure is determined by the commissioner to be due to negligence, there shall be imposed a penalty equal to fifty percent (50%) of the amount of the adjustment required by this subdivision (N). The commissioner is authorized to waive such penalty, in whole or in part, for good and reasonable cause under the provisions of § 67-1-803.

SECTION 31. Tennessee Code Annotated, Section 67-1-804(b), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) When any person fails to disclose, upon the initial filing of the person's franchise and excise tax return, any transaction described in § 67-4-2006(d) or 67-4-2006(e) and such failure is determined by the commissioner to be due to



negligence, there shall be imposed a penalty equal to the greater of ten thousand dollars (\$10,000) or fifty percent (50%) of any adjustment to the initially filed return made under § 67-4-2006(d) or 67-4-2006(e). The commissioner is authorized to waive such penalty, in whole or in part, for good and reasonable cause under the provisions of § 67-1-803. Any penalty imposed under this subdivision (b)(2) shall be disregarded for purposes of determining the taxpayer's filing record under subdivision (d)(3) of this section.

SECTION 32. Tennessee Code Annotated, Section 67-4-2006(e), is amended by deleting the language "a fifty percent (50%) penalty on the amount of any underpayment arising from the adjustment" and by substituting instead the language "a negligence penalty as set forth in § 67-1-804(b)(2)".

SECTION 33. Tennessee Code Annotated, Section 67-4-2008, is amended by adding the following as a new, appropriately designated subsection:

( ) (1) Every person claiming exemption from taxation under this section shall file an application for exemption upon a form prescribed by the commissioner. Such application shall be filed within sixty (60) days of the beginning of the first tax year for which the person claims such exemption.

(2) Every person claiming exemption from taxation under this section that has previously filed an application for exemption in accordance with subdivision (1) of this subsection shall, on or before the fifteenth day of the fourth month following the close of the person's tax year, file an application for renewal of exemption upon a form prescribed by the commissioner.

(3) No person shall be exempt from taxation under this section until the person has filed the application required by subdivision (1) or (2) of this subsection. The commissioner is authorized to accept an application that is filed after the time periods provided in subdivisions (1) and (2). However, when any person fails to timely file the application, there shall be imposed a penalty in the amount of one thousand dollars (\$1,000) per occurrence. The commissioner is authorized to waive such penalty, in whole or in part, for good and reasonable cause under the provisions of § 67-1-803.

(4) Any person who claims an exemption under this section but fails to meet the criteria for exemption shall be subject to all tax, penalty, and interest otherwise applicable under the law.

(5) Notwithstanding subdivisions (1) through (4) of this subsection to the contrary, the requirements in this subsection shall not apply to any person that qualifies for exemption under subdivision (1), (2), (3), (4), (13), or (14) of subsection (a) of this section.

SECTION 34. Tennessee Code Annotated, Section 67-4-2004(33), is amended by deleting the language "national stock exchange" and by substituting instead the language "securities exchange that is either registered as a national securities exchange

with the Securities and Exchange Commission under Section 6 of the Securities Exchange Act of 1934 or is a national securities exchange of a foreign country and regulated in a substantially similar manner by a foreign financial regulatory authority".

SECTION 35. Section 187 of Chapter 602 of the Public Acts of 2007 is amended by deleting the language:

Sections 127 through 178 of this act shall take effect on July 1, 2009, the public welfare requiring it.

and by substituting instead the language:

Sections 127 through 178 of this act shall take effect on July 1, 2011, the public welfare requiring it.

SECTION 36. Tennessee Code Annotated, Section 67-6-103(f)(2), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 37. Tennessee Code Annotated, Section 67-6-201(b), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 38. Tennessee Code Annotated, Section 67-6-203(b)(2), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 39. Tennessee Code Annotated, Section 67-6-206(d), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 40. Tennessee Code Annotated, Section 67-6-217(b), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 41. Tennessee Code Annotated, Section 67-6-219(e), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 42. Tennessee Code Annotated, Section 67-6-221(d), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 43. Tennessee Code Annotated, Section 67-6-226(b), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 44. Tennessee Code Annotated, Section 67-6-227(b), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 45. Tennessee Code Annotated, Section 67-6-349(b), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 46. Tennessee Code Annotated, Section 67-6-504(e)(2), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 47. Tennessee Code Annotated, Section 67-6-704(b), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 48. Tennessee Code Annotated, Section 67-6-710(i), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 49. Tennessee Code Annotated, Section 67-6-714(b), is amended by deleting the language "July 1, 2009" and by substituting instead the language "July 1, 2011".

SECTION 50. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following as a new, appropriately designated subdivision:

( ) "Computer software maintenance contract" means a contract that obligates a person to provide a customer with future updates or upgrades to computer software, support services with respect to computer software, or both. However, "computer software maintenance contract" does not include telephone or other support services that are optional and are sold separately and invoiced separately and do not include any transfer, repair, or maintenance of computer software on the part of the seller.

SECTION 51. Tennessee Code Annotated, Section 67-6-230(b), is amended by deleting the language "or computer software".

SECTION 52. Tennessee Code Annotated, Section 67-6-231, is amended by deleting the current language in its entirety and by substituting instead the following:

(a) The retail sale, lease, licensing, or use of computer software in this state, including prewritten and custom computer software, shall be subject to the tax levied by this chapter, regardless of whether the software is delivered electronically, delivered by use of tangible storage media, loaded or programmed into a computer, created on the premises of the consumer, or otherwise provided. Such tax shall be levied on the sales price or purchase price of the computer software at a rate equal to the rate of tax levied on the sale of tangible personal property at retail by § 67-6-202.

(b)(1) The retail sale of, use of, or subscription to a computer software maintenance contract shall be subject to the tax levied by this chapter. Such tax shall be levied on the sales price or purchase price of the computer software maintenance contract at a rate equal to the rate of tax levied on the sale of tangible personal property at retail by § 67-6-202.

Computer software maintenance contracts shall be subject to tax in this state when:

(A) The computer software maintenance contract is sold as part of or in connection with a sale of computer software that is subject to the tax levied by this chapter;

(B) The computer software maintenance contract applies to computer software installed on computers located in this state. If a computer software maintenance contract applies to computer software installed on computers both in this state and outside this state, dealers or users may allocate to this state a percentage of the sales price or purchase price of the computer software maintenance contract that equals the percentage of computer software installed on computers located in this state; or

(C) The location of the computer software covered by the computer software maintenance contract is not known to the seller but the purchaser's residential street address or primary business address is in this state.

(2) No additional tax shall be due under this chapter on any repairs, modifications, updates, or upgrades provided pursuant to a computer software maintenance contract that is subject to tax under this subsection, unless the seller makes an additional charge for such repairs, modifications, updates, or upgrades.

SECTION 53. Tennessee Code Annotated, Section 67-6-102(73), is amended by deleting the word "and" at the end of subdivision (J), by adding the word "and" at the end of subdivision (K), and by adding the following as a new subdivision (L):

(L) "Sale" includes any transfer of title or possession, or both, lease or licensing, in any manner or by any means whatsoever of computer software for a consideration, and includes the creation of computer software on the premises of the consumer and any programming, transferring, or loading of computer software into a computer;

SECTION 54. Tennessee Code Annotated, Section 67-6-387, is amended by deleting the current language in its entirety and by substituting instead the following:

67-6-387.

There is exempt from the use tax imposed by this chapter the fabrication of computer software by a person, or its direct employee, for such person's own use and consumption. The exemption provided by this section shall not apply to computer software that is fabricated by any agent of the person using the computer software unless such agent is also a direct employee of the person. For purposes of this section, the term "direct employee" means an employee to whom the person is obligated to issue a federal form W-2, Wage and Tax Statement, and with respect to whom the person has responsibility for withholding taxes under the Federal Insurance Contributions Act or such other

entity or affiliate that upon petition to the commissioner has been approved as having such responsibility under this section.

SECTION 55. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following as a new, appropriately designated section:

67-6-3\_\_.

(a) There is exempt from the sales or use tax the transfer of preliminary artwork by an advertising agency to its client. The use by an advertising agency of preliminary artwork created by the advertising agency to provide advertising services is exempt from the taxes imposed by this chapter.

(b) The sale or use of final artwork is subject to the taxes levied by this chapter. If final artwork is provided by an advertising agency to its client pursuant to an agreement for providing advertising services, the sales price for the final artwork shall not include any fees paid for advertising services and shall include only the charges made by the advertising agency that are directly allocable to the production of final artwork.

(c) The sale or use of advertising materials is subject to the taxes levied by this chapter.

SECTION 56. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following as new, appropriately designated subdivisions:

( ) "Advertising agency" means a business, more than eighty percent (80%) of whose gross receipts in the previous taxable year were, or in the first taxable year are reasonably projected to be, from charges for advertising services. For purposes of this definition, the term "gross receipts" does not include charges for printing, imprinting, reproduction, publishing of tangible personal property or photography to the extent that (a) the activity was not performed by the business itself but was contracted out to another business; and (b) the charges therefor were passed through the business to its client;

( ) "Advertising materials" means tangible personal property or its digital equivalent produced to advertise a product, service, idea, concept, issue, place or thing, including, but not limited to, brochures, catalogs and point-of-purchase materials, but not including preliminary artwork, and not including original sound recordings or video recordings produced by recording studios, television studios, video production studios or by or for advertising agencies, or masters produced from such original recordings, regardless of whether such original recordings or masters are produced in a tangible medium or a digital equivalent;

( ) "Advertising services" means services rendered by an advertising agency to promote a product, service, idea, concept, issue, place or thing, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including, but not limited to, advice and counseling regarding marketing and

advertising; strategic planning for marketing and advertising; consumer research; account planning; public relations; design; layout; preparation of preliminary art; creative consultation, coordination, media placement, direction and supervision; script and copywriting; editing; supervision of the production of advertising materials, including quality control; direct mail and account management services. Advertising services do not include the production of final artwork or advertising materials;

( ) "Final artwork" means tangible personal property or its digital equivalent that is suitable for use in producing advertising materials and includes, but is not limited to, photographs, illustrations, drawings, paintings, calligraphy, models and similar works that are used to produce advertising materials but does not include preliminary artwork or original sound recordings or video recordings produced by recording studios, television studios, video production studios, or by or for advertising agencies, or masters produced from such original recordings regardless of whether such original recordings or masters are produced in a tangible medium or a digital equivalent;

( ) "Preliminary artwork" means tangible personal property and digital equivalents that are produced by an advertising agency in the course of providing advertising services solely for the purpose of conveying concepts or ideas or demonstrating an idea or message to a client and includes, but is not limited to, concept sketches, illustrations, drawings, paintings, models, photographs, storyboards or similar materials;

SECTION 57. Tennessee Code Annotated, Section 67-6-349, is amended by designating the current language as subsection (a) and by adding the following as a new subsection (b):

(b)(1) If a dealer pays to the department the tax imposed by this chapter on fuel or petroleum products sold to an air common carrier, and if such fuel or petroleum products are subsequently used by the air common carrier in a manner that renders the product exempt from tax under subsection (a), then the dealer may take a credit equal to the amount of tax previously paid to the department, if all of the following conditions are satisfied:

(A) Prior to taking the credit, the dealer must give the air common carrier a credit or refund of any tax collected from the air common carrier that is the basis for the credit taken under this subsection;

(B) The dealer must obtain documentation from the air common carrier that is sufficient to establish that the fuel or petroleum products were used in an exempt manner as provided in subsection (a); and

(C) The credit is taken by the dealer on a return filed pursuant to this chapter within one (1) year of the date the tax was paid to the department.

(2) The dealer must maintain documentation that is sufficient to establish entitlement to the credit, and such documentation must be maintained for a period of three (3) years from December 31 of the year in which the credit is taken on the return. Nothing in this subsection (b) shall be construed as preventing the dealer from filing a claim for refund pursuant to § 67-1-1802 in lieu of taking a credit on the tax return; provided, however, in no case shall the same tax be subject to a refund and a credit.

SECTION 58. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following as a new, appropriately designated subsection:

( ) Notwithstanding the allocations provided for in subsection (a), if there exists a performing arts center that consists of four (4) or more auditoriums, has a total seating capacity of five thousand four hundred (5,400) or more, and is operated by an organization that has received a determination of exemption from the Internal Revenue Service under Internal Revenue Code § 501(c)(3), and if the performing arts center is located in facilities owned by the state or a political subdivision thereof, then an amount shall be apportioned and distributed to the entity that is responsible for operation and management of the performing arts center. A performing arts center may consist of two (2) or more performance venues with auditoriums located in two (2) or more buildings that are contiguous or in close proximity and are owned by the state or a political subdivision thereof. The amount apportioned and distributed pursuant to this subsection shall be equal to the amount of state tax revenue derived under this chapter from the sale of tickets for admission to events held at the performing arts center; provided, however, that such apportionment and distribution shall be used exclusively for maintenance and improvement of the facilities in which the performing arts center is located, which shall include, but not be limited to, capital improvements, additions, and renovations to the facilities and debt service on funds borrowed to pay for such improvements, additions, and renovations. Debt service shall include principal and interest payments on existing and future debt obligations, including repayment to the exempt organization operating the facilities of funds advanced or loaned by such organization which were used or are used to pay the costs, in whole or in part, of such improvements, additions and renovations to the facilities. Notwithstanding any provision of this subsection to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, Ch. 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, Ch. 856, § 4, shall be apportioned and distributed pursuant to this subdivision. All such revenue shall continue to be allocated as provided in Acts 1992, Ch. 529, and Acts 2002, Ch. 856, respectively.

SECTION 59. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following as a new, appropriately designated subsection:

( )(1) Notwithstanding the allocations provided for in subsection (a), except as provided in subdivision (2) of this subsection, state tax revenue collected from commercial breeders licensed under the Commercial

Breeder Act (House Bill No. 386, Senate Bill No. 258) shall be allocated to the Commercial Breeder Act enforcement and recovery account.

(2) Notwithstanding subdivision (1) of this subsection, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, Ch. 529, § 9 and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, Ch. 856, § 4, shall be allocated to the Commercial Breeder Act enforcement and recovery account. All such revenue shall continue to be allocated as provided in Acts 1992, Ch. 529, and Acts 2002, Ch. 856, respectively.

SECTION 60. Tennessee Code Annotated, Section 7-3-202, is amended by deleting the section in its entirety and by substituting instead the following:

(a) As used in this section, unless the context otherwise requires:

(1) "Event" means any activity with a paid admission fee that takes place primarily on or directly above the playing surface at the municipal stadium;

(2) "Metropolitan government" means those counties and municipalities adopting the metropolitan form of government; and

(3) "Municipal stadium" means a structure with seats for not less than thirty thousand (30,000) spectators, which is constructed after July 7, 1977, and which is used primarily for sporting events and other related activities and is currently financed or was financed by general obligation bonds, revenue bonds or other indebtedness issued by a metropolitan government or any public instrumentality thereof; and

(4) "Promoter" means any person, and any agent or representative of such person, engaged in the sale or offering for sale of tickets to an event.

(b)(1) There is hereby authorized a privilege tax upon the privilege of attending any event at the municipal stadium in an amount not to exceed ten percent (10%) of the consideration charged for spectators attending the event. Subject to the limitation in the preceding sentence, the amount of the tax shall be established from time to time by ordinance of the local legislative body of the metropolitan government; provided, however, that the tax as adopted by such local legislative body shall not be at a rate or in an amount that would create a reimbursement obligation to the primary tenant of the municipal stadium under any lease existing on January 1, 2009, so long as such lease is in effect.

(2) The privilege tax authorized herein shall not apply to an event at a municipal stadium for the benefit of a public college or university where the public college or university utilizes the municipal stadium for a majority of its home football games in a particular season.



(3) The privilege tax authorized herein shall not apply to (i) non-ticketed or complimentary admissions credentials, or (ii) tickets for which no monetary consideration is received to the extent the number of such tickets do not exceed the lesser of five percent (5%) of the total number of tickets offered for sale to the event or 3,250.

(4) The privilege tax authorized here shall apply to the first, initial or original sale of tickets and shall not apply to re-sales or redistributions of such tickets.

(5) The privilege tax authorized herein shall be in addition to all other taxes or fees levied or authorized to be levied on the sale of any event ticket, whether in the form of excise, license, or privilege taxes and shall be in addition to all other fees and taxes now levied or authorized to be levied; provided, however, that the privilege tax authorized herein shall not be subject to state or local option taxes under Title 67, Chapter 6.

(c)(1) The privilege tax authorized herein shall be added to the ticket price charged for admission to the municipal stadium by each promoter of the event. The promoter shall collect the privilege tax and remit it to the metropolitan government.

(2) By ordinance, the legislative body of the metropolitan government may authorize the promoter to deduct up to two percent (2%) of the privilege tax collected by the promoter to defray the cost of accounting and remitting the tax to the metropolitan government.

(d) The proceeds from the privilege tax authorized by this section and received by the metropolitan government shall be used by the metropolitan government exclusively to defray the cost of constructing, operating, renovating, expanding or improving the municipal stadium or for the payment of debt service on bonds or other indebtedness issued by the metropolitan government or any public instrumentality thereof for the construction, operation, renovation, expansion or improvement of the municipal stadium.

(e) The provisions of this section shall only apply to those counties having a metropolitan form of government.

(f) The privilege tax authorized by (b)(1) shall take effect upon the approval of the same by a two-thirds (2/3) vote of the local legislative body of the metropolitan government.

SECTION 61. Tennessee Code Annotated, Section 67-6-212, is amended by adding the following as a new, appropriately designated subsection:

( ) The tax imposed by this section shall not apply to the amount of any privilege tax levied pursuant to § 7-3-202.

SECTION 62. Tennessee Code Annotated, Section 67-6-103(d)(1), is amended by deleting subdivision (A) in its entirety and by substituting instead the following:

(A)(i) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to the provisions of Title 7, Chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association), or major or minor league professional hockey (National Hockey League, or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if such municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of such tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by such major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise's operations as a professional sports franchise. Such amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with the provisions of Title 7, Chapter 67.

(ii) If an indoor sports facility owned by a sports authority organized pursuant to the provisions of Title 7, Chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to all other events occurring at such indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the sports facility, parking charges, and related services. Such amounts distributed to the municipality shall be for the exclusive use of currently existing entities attached to committees provided for in Acts 2008, Ch. 1004, § 2 or, if no such entity exists, then for the exclusive use of an authority organized pursuant to the provisions of Title 7, Chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of, as directed by the facility manager, expenses associated with securing current, expanded or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with the provisions of Title 7, Chapter 67.

(iii) Notwithstanding the allocations provided for in subsection (a), if a franchise for a minor league affiliate of a major league baseball team (American or National League) playing at the Class AA level or higher locates in a municipality in this state and if such municipality constructs a new stadium for such franchise, then at such time as the franchise begins operating in the new stadium, and for a period of thirty (30) years thereafter, an amount shall be apportioned and distributed to the entity that is responsible for retirement of the debt on and maintenance of the

stadium in such municipality equal to the amount of state and local tax revenue derived from the sale of admissions to games of the professional sports franchise, and also the sale of food and drink sold on the premises of the stadium used in conjunction with those games, parking charges, and related services, as well as the sale by such professional sports franchise, within the county in which the games take place, of authorized franchise goods and products associated with its operations as a professional sports franchise less local taxes collected in the year preceding the new stadium occupancy. Such amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with the provisions of Title 7, Chapter 67.

(iv) For the purpose of this subsection (d), "municipality" means any metropolitan government, incorporated city or county located in the State of Tennessee.

(v) Notwithstanding any provision of this subdivision (d)(1)(A) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, Ch. 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, Ch. 856, § 4, shall be distributed to the municipality. All such revenue shall continue to be allocated as provided in Acts 1992, Ch. 529, and Acts 2002, Ch. 856, respectively.

SECTION 63. Tennessee Code Annotated, Section 67-6-712(c)(1), is amended by deleting the first three sentences in their entirety and by substituting instead the following:

(A) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to the provisions of Title 7, Chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association) or major or minor league professional hockey (National Hockey League or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if such municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of such tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of local tax revenue derived from the sale of admissions to the events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by such major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise's operations as a professional sports franchise. Such amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with the provisions of Title 7, Chapter 67.

(B) In addition, if an indoor sports facility owned by a sports authority organized pursuant to the provisions of Title 7, Chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to two-thirds (2/3) of the amount of the allocation of local tax revenue under subdivision (a)(2) derived from the sale of admissions to all other events occurring at such indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the indoor sports facility, parking charges, and related services. Such amounts distributed to the municipality shall be for the exclusive use of currently existing entities attached to committees provided for in Acts 2008, Ch. 1004, § 2 or, if no such entity exists, then for the exclusive use of an authority organized pursuant to the provisions of Title 7, Chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of, as directed by the facility manager, expenses associated with securing current, expanded or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with the provisions of Title 7, Chapter 67.

SECTION 64. Tennessee Code Annotated, Section 67-4-1702(a), is amended by deleting the word "and" at the end of subdivision (5) and is further amended by deleting the period (".") at the end of subdivision (6) and substituting instead the language "; and" and is further amended by adding the following as a new subdivision (7):

(7) Persons employed as players on any franchise of the National Basketball Association ("NBA") or National Hockey League ("NHL") for more than ten (10) days in the tax period who are on the roster for any NBA or NHL regular season game within the boundaries of the state. For purposes of this subdivision, "roster" means the list of players present in Tennessee and eligible to participate in games, irrespective of whether the player actually participates in the game.

SECTION 65. Tennessee Code Annotated, Section 67-4-1703, is amended by adding the following as new subsections (d)-(f):

(d) Notwithstanding subsection (a) or (b), the annual privilege tax established by this part payable by any player defined in § 67-4-1702(a)(7) in any tax year shall be two thousand five hundred dollars (\$2,500) per game with a three (3) game annual cap. For purposes of this subsection, "tax year" means June 1 through May 30, and the privilege tax is due and payable on June 1 following the end of the tax year. Taxes paid after June 1 are delinquent.

(e) All privilege taxes collected by the commissioner pursuant to § 67-4-1702(a)(7) from any NBA player or NHL player shall be deposited into a municipal government fund located in the same municipality as the indoor sports facility in which the game was played. For counties with metropolitan forms of government, such funds shall be held for the exclusive use of currently existing entities attached to committees provided for in Acts 2008, Ch. 1004, § 2. For all other municipalities, such funds shall be held for the exclusive use of the convention and visitors bureau in the municipality. Amounts allocated pursuant to this subsection shall be used exclusively for the payment of, or the reimbursement of, as directed by the facility manager, expenses associated with securing current, expanded or new events for indoor sports facilities owned by a

municipal agency formally designated by the municipality, in accordance with the provisions of Title 7, Chapter 67.

(f) Nothing in this section shall be construed as creating a payroll tax.

SECTION 66. Tennessee Code Annotated, Section 67-4-1701, is amended by deleting the period at the end of the second sentence and by inserting a comma and the words "except as otherwise provided for in this part."

SECTION 67. Tennessee Code Annotated, Section 67-6-350, is amended by repealing the section in its entirety.

SECTION 68. Tennessee Code Annotated, Section 67-6-395, is amended by deleting the current language in its entirety and by substituting instead the following:

67-6-395.

(a) There is exempt from the tax imposed by this chapter the use of computer software that is developed and fabricated by an affiliated company.

(b) There is exempt from the tax imposed by this chapter the repair of computer software or any other services otherwise taxable that are rendered by a company for an affiliated company.

(c) For purposes of this section, companies are affiliated only if:

(1) Either company directly owns or controls one hundred percent (100%) of the ownership interest of the other company; or

(2) One hundred percent (100%) of the ownership interest of both companies is owned or controlled by a common parent.

SECTION 69. Tennessee Code Annotated, Section 67-4-702, is amended by deleting subdivision (5) and by substituting instead the following:

(5) "Dominant business activity" means the business activity that is the major and principal source of taxable gross sales of the business;

and is further amended by deleting subdivision (14) and by substituting instead the following:

(14) "Retail sale" or "sale at retail" means any sale other than a wholesale sale;

and is further amended by deleting subdivision (15) and by substituting instead the following:

(15) "Retailer" means any person primarily engaged in the business of making retail sales. For purposes of this subdivision, "primarily" means that at least fifty percent (50%) of the taxable gross sales of the business are retail sales;

and is further amended by deleting subdivision (22) and by substituting instead the following:

(22)(A) "Wholesale sale" or "sale at wholesale" means any sale to a retailer for resale;

(B) "Wholesale sale" or "sale at wholesale" includes the sale of industrial materials for future processing, manufacture or conversion into articles of tangible personal property for resale where such industrial materials become a component part of the finished product. The provisions of this subdivision shall not apply to raw or unprocessed agricultural products;

(C) "Wholesale sale" or "sale at wholesale" includes the sale by a wholesaler of tangible personal property to the State of Tennessee or any county or municipality or subdivision thereof, or the sale to any religious, educational or charitable institution as defined in § 67-6-322; and

(D) "Wholesale sale" or "sale at wholesale" includes the sale by a franchised motor vehicle dealer to a manufacturer or distributor of motor vehicles or an obligor under an extended service contract of parts and/or repair services necessary for repairs performed by the dealer under the manufacturer's, distributor's or obligor's warranty, and also includes predelivery inspection charges paid to a franchised motor vehicle dealer by a manufacturer or distributor of the motor vehicle;

and is further amended by deleting subdivision (23) and by substituting instead the following:

(23) "Wholesaler" means any person primarily engaged in the business of making wholesale sales. For purposes of this subdivision, "primarily" means that more than fifty percent (50%) of the taxable gross sales of the business are wholesale sales;

and is further amended by adding the following as a new, appropriately designated subdivision:

( ) "Resale" means a subsequent, bona fide sale of the property, services, or taxable item by the purchaser. "Sale for resale" means the sale of the property, services, or taxable item intended for subsequent resale by the purchaser. Any sales for resale shall, however, be in strict compliance with rules and regulations promulgated by the commissioner. Sales of tangible personal property or taxable services made by a dealer to an out-of-state vendor who directs that the dealer act as the out-of-state vendor's agent to deliver or ship tangible personal property or taxable services to the out-of-state vendor's customer, who is a user or consumer, are sales for resale;

SECTION 70. Tennessee Code Annotated, Section 67-4-703, is amended by deleting the current language in its entirety and by substituting instead the following:

67-4-703.

(a) Except as otherwise specifically provided, the commissioner is authorized to collect and administer the tax levied by any county and/or incorporated municipality under this part. The commissioner is likewise authorized to collect and administer any tax levied by the state under this part. In collecting and administering these taxes, the commissioner shall have all of the powers and duties specified in § 67-1-102 and in Chapter 1, Part 13 and Part 14, of this title.

(b) Any person subject to the taxes collected and administered by the commissioner under this part shall be entitled to the rights and remedies set out in § 67-1-110 and in Chapter 1, Part 18, of this title.

(c) For the period July 1, 2009 through October 1, 2010, the commissioner shall have broad discretion to transition the administration of this part from the local to the state level.

SECTION 71. Tennessee Code Annotated, Section 67-4-704, is amended by deleting the current language in its entirety and by substituting instead the following:

67-4-704.

The making of sales by engaging in any vocation, occupation, business or business activity enumerated, described or referred to in § 67-4-708(1)-(4) or § 67-4-710 is declared to be a privilege upon which each county and/or incorporated municipality in which such business, business activity, vocation or occupation is carried on may levy a privilege tax in an amount not to exceed the rates fixed and provided in this part.

SECTION 72. Tennessee Code Annotated, Section 67-4-706, is amended by deleting the current language in its entirety and by substituting instead the following:

67-4-706.

(a) Every person taxable under this part shall, prior to engaging in business as defined in § 67-4-702, register with the county clerk, in the case of businesses located within the county, and with the city official designated as the register by city charter or ordinance, in the case of businesses located within the municipality.

(b) Any metropolitan government which has levied the taxes authorized by this part may, by resolution of its legislative body, designate the county clerk as the entity responsible for the registration of businesses for the entire metropolitan area.

(c) Subsection (a) notwithstanding, every person taxable under §§ 67-4-705 and 67-4-709(5) shall, prior to engaging in business as defined in § 67-4-702, register with the commissioner in a manner prescribed by the commissioner.

SECTION 73. Tennessee Code Annotated, Section 67-4-707, is amended by deleting the language "shall be for the use and benefit of the taxing unit" and by substituting instead the language "may be called by the state".

SECTION 74. Tennessee Code Annotated, Section 67-4-708(5), is amended by deleting the current language in its entirety and by substituting instead the following:

(5) CLASSIFICATION 5. Industrial loan and thrift companies required to obtain a certificate and a license under Title 45, Chapter 5.

SECTION 75. Tennessee Code Annotated, Section 67-4-709, is amended by deleting the current language in its entirety and by substituting instead the following:

67-4-709.

For the exercise of the privileges described or enumerated in § 67-4-708, persons shall pay a tax, according to the dominant business activity of such persons as follows:

(1) CLASSIFICATION 1 as described in § 67-4-708(1):

(A) One tenth of one percent ( $1/10$  of 1%) of all sales by a retailer classified under § 67-4-708(1)(A), (1)(B) or (1)(C);

(B) One fortieth of one percent ( $1/40$  of 1%) of all sales by a wholesaler classified under § 67-4-708(1)(A);

(C) Three eightieths of one percent ( $3/80$  of 1%) of all sales by a wholesaler classified under § 67-4-708(1)(B) or (1)(C); and

(D) One twentieth of one percent ( $1/20$  of 1%) of all sales by a retailer classified under § 67-4-708(1)(D);

(2) CLASSIFICATION 2 as described in § 67-4-708(2):

(A) Three twentieths of one percent ( $3/20$  of 1%) of all sales by a retailer; and

(B) Three eightieths of one percent ( $3/80$  of 1%) of all sales by a wholesaler;

(3) CLASSIFICATION 3 as described in § 67-4-708(3):

(A) Three sixteenths of one percent ( $3/16$  of 1%) of all sales by a retailer; and

(B) Three eightieths of one percent ( $3/80$  of 1%) of all sales by a wholesaler;

(4) CLASSIFICATION 4 as described in § 67-4-708(4):



(A) One tenth of one percent (1/10 of 1%) of the compensation entitled to under the contract, whether in the form of a contract price, commission, fee or wage, by the persons enumerated in § 67-4-708(4)(A);

(i) Persons who, during any taxable period, receive more than fifty thousand dollars (\$50,000) of compensation from contracts in a county and/or incorporated municipality other than the county or incorporated municipality where domiciled or located, shall be deemed to have a location in the county and/or municipality where such work was performed and a business tax return shall be filed for that location for the period in question. Gross receipts reported on a deemed location return shall not be reported on the return of the business's permanent domicile;

(ii) In computing the measure of the tax, except as provided by this part, no deduction will be allowed on account of the cost of tangible property sold, the cost of materials used, labor cost, reimbursed cost, interest, discount, delivery cost, taxes, or no other expense whatsoever paid or accrued and without any deduction on account of losses; and

(B) One tenth of one percent (1/10 of 1%) of the gross commissions, margins, fees, or other charges by the persons enumerated in § 67-4-708(4)(B); and

(5) CLASSIFICATION 5 as described in § 67-4-708(5):

(A) Three tenths of one percent (3/10 of 1%) of the gross income of the business; and

(B) "Gross income of the business" means all interest income, earned discounts, earned lease rentals, commission fees exclusive of insurance commissions, past due charges, contract earnings or charges, collection charges, loan service fees, late fee income, and all other income, without any deduction except as provided by this part.

SECTION 76. Tennessee Code Annotated, Title 67, Chapter 4, Part 7, is amended by adding the following as a new Section 67-4-710:

67-4-710.

(a) For the exercise of the privileges described or enumerated in this section, persons shall pay a fee directly to the county clerk, in the case of activities carried on within the county, and to the city official designated as the collector of tax by city charter or ordinance, in the case of activities carried on within the municipality:

(1)(A) In the case of antique malls, flea markets, craft shows, antique shows, gun shows and auto shows, operated as public facilities for such particular purpose from which business is carried on by two (2) or more retailers of tangible personal property, which includes that set forth in § 67-4-708(3)(A)(iii), the owner, manager, operator or promoter of the facility shall be required to obtain a license and shall collect and submit to local tax officials a one dollar (\$1.00) fee per day per booth from each exhibitor at the promotion location. However, in the case of a flea market, those exhibitors registered pursuant to Chapter 6 of this title and those who register annually pursuant to § 67-6-220 shall have the option of either registering and remitting the business tax levied in § 67-4-709, or may remit the one dollar (\$1.00) fee per day per booth to the flea market operator as provided in this subdivision (1)(A). Those exhibitors not registered annually shall pay the one dollar (\$1.00) fee per booth per day to the flea market operators. Those exhibitors electing to register and pay the business tax levied in § 67-4-709 must present evidence of such registration to the operator before conducting business. The first sentence of this subdivision (1)(A) shall not apply to those exhibitors properly licensed at the promotion location prior to July 1, 1983, until such time as that license expires, nor to those promotions conducted by nonprofit associations, corporations or organizations, nor to casual and isolated activities by persons who do not hold themselves out as engaged in business. Such fee shall be in lieu of any business tax otherwise provided for by law;

(i) In the case of an antique mall, flea market, craft show, antique show, gun show or auto show in which the location is not a continuing business, the fees collected by the owner, manager, operator or promoter shall be submitted to local tax officials, together with such supporting documents as the tax collector may require, within seventy-two (72) hours after the closing of the event;

(ii) In the case of an antique mall, flea market, craft show, antique show, gun show or auto show in which the location is a continuing business, the fees levied by this part shall be due and payable monthly, on the first day of each month. For the purpose of preparing such supporting documents as the tax collector may require, it shall be the duty of all owners, managers, operators or promoters on or before the tenth of each month to transmit to the tax collecting official the forms

prescribed, prepared and furnished by such official, together with the amount of tax collected during the preceding month. Failure to so remit such tax shall cause such tax to become delinquent;

(iii) The provisions of this subdivision (1)(A) shall not apply to any business that is primarily engaged in the selling of antiques at least five (5) days each week and that is in a permanent location. In the case of an antique mall primarily engaged in the selling of antiques at least five (5) days a week with a common cash register for all sales, only the mall operator shall be required to obtain a business tax license and pay on all receipts derived from that location. Further, for purposes of the Business Tax Act, compiled in this part, individual booths rented at such mall shall not be deemed to be separate places, locations or outlets in the state from which business is carried on;

(B) "Flea market booth" means any contiguous space leased by a single vendor to sell tangible personal property; and

(2) Transient vendors shall pay a fee of fifty dollars (\$50.00) for each fourteen-day period in each county and/or municipality in which such vendors sell or offer to sell merchandise or for which they are issued a license. Notwithstanding any provision in the law to the contrary, such fee shall be paid prior to the first day of engaging in business. Transient vendors shall not be liable for the tax levied under § 67-4-709.

(b) The county clerk and the city official charged with collecting the fees imposed by this section shall report and remit all such collections to the department in a manner prescribed by the commissioner. Such collections shall be distributed as provided in § 67-4-724.

SECTION 77. Tennessee Code Annotated, Section 67-4-711(a), is amended by deleting subdivision (5) in its entirety and by substituting instead the following:

(5)(A) Amounts actually paid during the business tax period by a contractor to a subcontractor holding a business license or who is licensed by the state board for licensing contractors for performing the activities described in § 67-4-708(4)(A). For a contractor to be eligible to claim the deduction, such contractor must provide, on a form prescribed by the commissioner, the name, address, and business license or contractor's license number of the subcontractor and the amount subcontracted. The contractor also must maintain in its records a copy of

the subcontractor's business license or license issued by the board for licensing contractors.

(B) The provisions of this subdivision (5) shall apply only to new contracts issued sixty (60) days after the effective date of this act. Contracts issued before such date shall be subject to the provisions of this subdivision (5) as it existed immediately prior to the effective date of this act.

and is further amended by deleting subdivision (8) in its entirety and by substituting instead the following:

(8) A deduction from gross receipts shall be allowed for bad debts arising from receipts on which the tax imposed by this chapter was paid.

(A) Any deduction taken that is attributed to bad debts shall not include interest.

(B) For purpose of calculating the deduction, a "bad debt" is as defined in 26 U.S.C. § 166. However, the amount calculated pursuant to 26 U.S.C. § 166 shall be adjusted to exclude: financing charges or interest, sales or use taxes charged on the purchase price, uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid, expenses incurred in attempting to collect any debt, and repossessed property.

(C) The deduction provided for by this subdivision (8) shall be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision (8), a claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(D) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected shall be paid and reported on the return filed for the period in which the collection is made.

(E) When the amount of bad debt exceeds the amount of gross receipts for the period during which the bad debt is written off, the taxpayer may file a refund claim and receive a refund pursuant to § 67-1-1802. The statute of limitations for filing the claim shall be measured from the due date of the return on which the bad debt could first be claimed.

SECTION 78. Tennessee Code Annotated, Section 67-4-713(a), is amended by deleting subdivisions (2) and (7) in their entirety.

SECTION 79. Tennessee Code Annotated, Section 67-4-713(a)(3), is amended by deleting the current language in its entirety and by substituting instead the following:

(3) Except as provided in subdivision (a)(4), personal property taxes properly paid pursuant to Chapter 5, Part 5 or Part 13, of this title;

(A) Personal property taxes are allowable as a credit only to the extent that the property is located and taxed by the same city or county as the taxpayer's principal domicile for business tax purposes;

(B) Personal property taxes are allowable as a credit only for taxes paid either during the tax period covered by the return or prior to the due date of the return;

(C) Personal property taxes assessed pursuant to audit and subsequently paid may be taken as a credit either on the business tax return filed for the year in which the additional personal property tax was paid or on the return covering the immediately previous year. If the credit is taken in the previous year, an amended business tax return must be filed for that year;

SECTION 80. Tennessee Code Annotated, Section 67-4-713(b), is amended by deleting the current language in its entirety and by substituting instead the following:

(b) In no case shall the total credits provided in this section be used to offset more than fifty percent (50%) of the taxpayer's liability as calculated in § 67-4-709.

SECTION 81. Tennessee Code Annotated, Section 67-4-713, is amended by deleting subsections (c), (d), (e) and (f) in their entirety.

SECTION 82. Tennessee Code Annotated, Section 67-4-714, is amended by deleting the section in its entirety and by substituting instead the following:

A taxable entity that is incorporated, domesticated, qualified or otherwise registered to do business in Tennessee but is, or has become, inactive in Tennessee, or whose charter, domestication, qualification or other registration is forfeited, revoked or suspended without the entity being properly dissolved, surrendered, withdrawn, cancelled or otherwise properly terminated, shall not be relieved from filing a return and paying the business tax, which shall be no less than the minimum tax established in this section as follows:

(1) Notwithstanding § 67-4-709(1)-(4) for taxpayers included in classifications (1)-(4) in § 67-4-708, the minimum business tax shall be twenty-two dollars (\$22.00) per annum after applying all deductions and credits set forth in §§ 67-4-711 and 67-4-713. In the case of coin-operated machines, only the principal place of business shall be subject to the minimum tax.

(2) Notwithstanding § 67-4-709(5) for taxpayers included in CLASSIFICATION (5) in § 67-4-708, the minimum tax payable shall be

four hundred fifty dollars (\$450) per annum after applying all deductions and credits set forth in §§ 67-4-711 and 67-4-713; however, under no circumstances shall the tax payable under § 67-4-709(5) be more than one thousand five hundred dollars (\$1,500) per annum after applying all deductions and credits set forth in §§ 67-4-711 and 67-4-713.

SECTION 83. Tennessee Code Annotated, Section 67-4-715, is amended by deleting the current language in its entirety and by substituting instead the following:

(a) The taxes levied by this part that are collected and administered by the commissioner shall be due and payable annually on the following dates:

- (1) December 31 for persons taxable under § 67-4-708(1);
- (2) March 31 for persons taxable under § 67-4-708(2);
- (3) June 30 for persons taxable under § 67-4-708(3);
- (4) September 30 for persons taxable under § 67-4-708(4); and
- (5) December 31 for persons taxable under § 67-4-708(5).

(b) For the purpose of ascertaining the amount of tax payable under this part, it shall be the duty of all persons to transmit to the commissioner, on forms prescribed by the commissioner, a return for each county, in the case of taxes levied by the county, and a return for each city, in the case of taxes levied by the city, showing the gross receipts arising from all sales taxable under this part during the period covered by each return. The return shall also include the applicable deductions or credits specifically allowed under this part and any other information required by the commissioner to determine the amount of tax properly due. Such returns shall be transmitted to the commissioner on or before the following dates:

- (1) February 28 for persons taxable under § 67-4-708(1);
- (2) May 31 for persons taxable under § 67-4-708(2);
- (3) August 31 for persons taxable under § 67-4-708(3);
- (4) November 30 for persons taxable under § 67-4-708(4); and
- (5) February 28 for persons taxable under § 67-4-708(5).

(c) At the time of transmitting to the commissioner the return required by this part, the person shall remit to the commissioner therewith the amount of tax due under the applicable provisions of this part, and failure to so remit such tax shall cause the tax to become delinquent.

(d) Any taxpayer that is required to file its sales and use tax returns electronically under § 67-6-504 is likewise required to file the returns required by this section electronically, and remit the tax electronically, using a method

approved by the commissioner. Taxpayers that fail to comply with this provision shall be subject to the penalties set out in § 67-6-504(g).

(e) Each taxpayer who operates more than one (1) place of business in a city or county may apply to the commissioner for permission to file a consolidated tax return for all business locations in a single taxing jurisdiction.

(f) The failure of any person to secure the forms mentioned in this section shall not relieve such person from the payment of the tax at the time and in the manner provided in this section.

SECTION 84. Tennessee Code Annotated, Section 67-4-716, is amended by deleting the current language in its entirety and by substituting instead the following:

The provisions of Part 8, Part 13, Part 14, Part 15, Part 17, and Part 18 of Chapter 1 of this title shall apply to all taxes collected and administered by the commissioner under this part.

SECTION 85. Tennessee Code Annotated, Section 67-4-717, is repealed in its entirety.

SECTION 86. Tennessee Code Annotated, Section 67-4-718(a), is amended by deleting the language "The local tax collection officers" and by substituting instead the language "The commissioner" and is further amended by adding the following as a new, appropriately designated subsection:

( ) Interest as provided in § 67-1-801 shall be added to the amount of tax due beginning from the regular statutory due date until the date the tax is paid. No penalty shall be assessed if the return is made and the full amount of taxes are paid on or before the extended due date. Any return and payment made subsequent to the extended due date shall, however, be subject to penalty without regard to the period allowed by the extension.

SECTION 87. Tennessee Code Annotated, Section 67-4-719, is amended by deleting the current language in its entirety and by substituting instead the following:

67-4-719.

The commissioner is authorized, in his sole discretion, to enter into a contract with the county clerk, in the case of business taxes levied by a county, or the appropriate city official, in the case of business taxes levied by a municipality, for the collection of taxes that have become delinquent under the provisions of this part. Any such contract may delegate to the county or city official any or all of the powers otherwise exercised by the commissioner under Chapter 1, Part 14, of this title. Any such contract shall also specify that the county or city official and any employees of such official are subject to the provisions of Chapter 1, Part 17, of this title.

SECTION 88. Tennessee Code Annotated, Section 67-4-720, is repealed in its entirety.

SECTION 89. Tennessee Code Annotated, Section 67-4-721, is amended by deleting the current language in its entirety and by substituting instead the following:

67-4-721.

(a) If any person liable for tax, interest or penalty levied hereunder shall sell out the person's business or stock of goods, or shall quit the business, the person shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business.

(b) The person's successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner shall produce a receipt from the commissioner showing that they have been paid, or a certificate stating that no taxes, interest or penalties are due.

(c)(1) If the purchaser of a business or stock of goods shall fail to withhold the purchase money as above provided, the purchaser shall be personally liable for the payment of the taxes, interest, and penalties accruing and unpaid on account of the operation of the business by any former owner, owners, or assigns.

(2) The amount of the purchaser's liability for payment of such taxes, interest and penalties shall not exceed the amount of the purchase money paid by the purchaser to the seller in good faith and for full and adequate consideration in money or money's worth. "Purchase money," as used in this subsection, includes cash paid, purchase money notes given by purchaser to seller, the cancellation of the seller's indebtedness to the purchaser, the fair market value of property or other consideration given by purchaser to seller; and does not include indebtedness of the seller either taken or assumed by the purchaser when a tax lien has not been filed.

(3) Such purchaser shall have no liability for such taxes, interest or penalties, if the department releases the former owner, owners or assigns from the original liability for such taxes, interest or penalty through payment of the amount due, and settlement with the department.

(d) A purchaser who, in good faith and without knowledge of any false statement therein, receives from the seller at the time of the purchase an affidavit stating under oath of the penalties of perjury the amount of such taxes, interest and penalty due and unpaid by the seller to the department through the date of the purchase, or a statement that there are no due and unpaid taxes, interest and penalty, who in good faith withholds and sets aside from the purchase money to be paid to the seller an amount sufficient to pay the amount of such taxes, interest and penalty shown to be due and unpaid in the seller's affidavit, and who tenders a copy of the seller's affidavit by registered or certified mail or by personal



service to the tax enforcement division of the department, shall be entitled to a release from the commissioner from any liability, in excess of that shown on the affidavit, for the payment of the taxes, interest, and penalty accrued and unpaid on account of the operation of the business by any former owner or assigns, unless the commissioner notifies the purchaser of the correct tax liability at the return address provided by the purchaser within fifteen (15) days of receipt of the affidavit.

(e)(1) Nothing in this section shall apply to any licensee transferring a business from one location to another, within the same municipality, on a one-time basis during any annual taxable period.

(2) In this event a licensee shall notify the county clerk, in the case of a business located in a county, or the appropriate city official, in the case of a business located in a municipality at least five (5) days prior to the last day of business at the old location, submitting information for the new location and payment of the fee set out in § 8-21-701.

(3) Succeeding transfers by the same licensee, within the same annual taxable period, shall submit a final return and payment within fifteen (15) days to the commissioner. In addition, such licensee shall be required to obtain a new business license for the new location as set forth in § 67-4-723.

SECTION 90. Tennessee Code Annotated, Section 67-4-722, is amended by deleting from subsection (a) the language ", commissioner of commerce and insurance, county clerk or other proper city tax collecting official or any person duly authorized by either of them" and by substituting instead the language "or his duly authorized agents"; and is further amended by deleting from subsection (b) the language "three (3) years" and by substituting instead the language "three (3) years from December 31 of the year in which the associated return required by this part was filed"; and is further amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) Except as provided in subsection (d), all returns, tax information, and tax administration information under this part shall be subject to the provisions of Chapter 1, Part 17, of this title.

SECTION 91. Tennessee Code Annotated, Section 67-4-723, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Upon receipt of the prescribed application and payment of fifteen dollars (\$15.00), together with any other information reasonably required, it shall be the duty of the county clerk, in the case of taxpayers located within the county, and the appropriate city official, in the case of taxpayers located within a municipality, to issue a license to the taxpayer. Such license shall be issued at the time of registration under § 67-4-706.

(b) In addition to the initial license issued under subsection (a), the issuing official shall renew such license upon notification from the department

that the taxpayer has filed the return required under § 67-4-715 and remitted the amount shown to be due on the return. There shall be no fee charged for such renewal of an existing license.

(c) Notwithstanding the provisions of § 8-21-701, no additional fee shall be charged to the taxpayer for the filing of the application or issuance of the license provided for in this section.

(d) It shall be the duty of each taxpayer to exhibit the license so received.

SECTION 92. Tennessee Code Annotated, Section 67-4-724, is amended by deleting the current language in its entirety and by substituting instead the following:

67-4-724.

(a) Except as otherwise provided in this section, all taxes collected by the commissioner under this part, including any associated interest and penalties, together with all amounts remitted to the department under § 67-4-710, shall be distributed as follows:

(1) An amount equal to seven dollars (\$7.00) per return shall be paid to the county clerk with respect to each tax return filed under § 67-4-715 by a taxpayer located within the county. Of such amount, two dollars (\$2.00) shall be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer-related expenses at the discretion of the county clerk. The amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(2) An amount equal to seven dollars (\$7.00) per return shall be paid to the appropriate city official with respect to each tax return filed under § 67-4-715 by a taxpayer located within the city.

(3) After the distributions provided in subdivisions (1) and (2) of this subsection, an amount equal to five percent (5%) of the remaining proceeds of the tax collected by the commissioner shall be paid to the county clerk, in the case of taxes levied under this part by a county, and the appropriate city official, in the case of taxes levied under this part by a municipality.

(4) After the distributions provided in subdivisions (1)-(3) of this subsection, fifty-seven percent (57%) of the remaining proceeds of the tax collected by the commissioner under this part, less a reasonable administration fee as set forth in § 67-6-710(b)(2), shall be distributed to the county or municipality that levied the tax under this part and forty-three percent (43%) shall be retained by the state and shall be earmarked and allocated specifically and exclusively to the state's general fund.

(b) Notwithstanding subsection (a), one hundred percent (100%) of the amount of any tax, interest, and penalty assessed by the commissioner as a result of an audit of the taxpayer's books and records shall be retained by the state and shall be earmarked and allocated specifically and exclusively to the state's general fund.

SECTION 93. Tennessee Code Annotated, Section 67-4-726, is repealed in its entirety.

SECTION 94. Tennessee Code Annotated, Section 67-1-703(b), is amended by deleting the first sentence and by substituting instead the following:

The commissioner may require that any person owing ten thousand dollars (\$10,000) or more in connection with any return, report, or other document to be filed with the department, or owing one thousand dollars (\$1,000) or more in connection with any return, report, or other document to be filed with the department under Chapter 6 of this title, or owing two thousand five hundred dollars (\$2,500) or more in connection with any quarterly estimated payment due under § 67-4-2015(b), shall pay any such tax liability to the state no later than the date such payment is required by law to be made in funds that are immediately available to the state on the date of payment.

SECTION 95. Tennessee Code Annotated, Section 67-1-102(b), is amended by adding the following as a new, appropriately designated subdivision:

( ) Enter into a contract to participate in the Multistate Tax Commission Joint Audit Program.

SECTION 96. Tennessee Code Annotated, Section 67-1-1704, is amended by adding the following as a new, appropriately designated subsection:

( ) Returns, tax information, and tax administration information may, in the commissioner's discretion, be disclosed for the exclusive purpose of participating in the Multistate Tax Commission Joint Audit Program. Any person receiving returns, tax information, or tax administration information under this subsection shall be subject to the confidentiality provisions, including penalties, set out in this part; and the commissioner is authorized to take such actions as deemed necessary to ensure that any such persons receiving returns, tax information, or tax administration information shall maintain said confidentiality.

SECTION 97. Tennessee Code Annotated, Section 67-8-409, is amended by deleting the first sentence of subsection (d) and by substituting instead the following language:

An extension of twelve (12) months in which to file the return required by this section, and to pay the tax shown to be due, shall be granted; provided, that a request for extension is made in writing by the personal representative or person in possession on a form prescribed by the commissioner, or by providing a copy of the personal representative's request for an automatic extension of time to file the federal estate tax return. The request shall not be filed on the original due date of the return, but, instead, shall be attached to the return filed

on or before the extended due date. Interest, as provided by § 67-1-801(a), shall attach to the unpaid amount due, from the original due date of the return until the date paid. If the taxpayer fails to file the request for extension required by this subdivision (d), or if the return is not filed with payment of the tax shown to be due by the extended due date, penalty as provided by § 67-1-804 shall attach as though no extension had been granted.

SECTION 98. Tennessee Code Annotated, Section 54-4-201(1), is amended by deleting the language "§§ 67-3-617 and 67-3-812" and by substituting instead the language "§§ 67-3-901 and 67-3-905".

SECTION 99. Tennessee Code Annotated, Section 67-3-809(d), is amended by deleting the word "and" at the end of subdivision (1) and is further amended by deleting the period (".") at the end of subdivision (2) and substituting instead the language "; and" and is further amended by adding the following as a new subdivision (3):

(3) Agricultural vehicles used solely for the purpose of transferring a person's harvested crops from the field to the person's storage facility for such harvested crops, provided, that the distance traveled on the public highways does not exceed five (5) miles.

SECTION 100. Tennessee Code Annotated, Section 67-9-102, is amended by deleting the language "comptroller of the treasury" each place that it appears and by substituting instead the language "Commissioner of Revenue".

SECTION 101. Tennessee Code Annotated, Section 67-9-103, is amended by deleting the language "comptroller of the treasury" each place that it appears and by substituting instead the language "Commissioner of Revenue".

SECTION 102. Tennessee Code Annotated, Section 67-1-1803, is amended by deleting the last sentence of subsection (d) and by substituting instead the following:

For purposes of this subsection (d), the state shall be deemed the prevailing party where the taxpayer is found by a court to be the transferee of assets conveyed in violation of Title 66, Chapter 3, or the tax, penalty, or interest at issue in the case arises from the same underlying activity with respect to which the taxpayer or one of its officers, owners, or employees was found to have committed fraud.

SECTION 103. Public Chapter 156 of 2009 is amended by substituting the words "entry of the order confirming the tax sale" for the words "date of the recording of the tax deed" in the amendatory language of Section 1.

SECTION 104. The deadline established by Tennessee Code Annotated, Section 67-5-509(d), is extended with respect to forced assessments of tangible personal property for tax year 2007, until September 1, 2009.

SECTION 105. Tennessee Code Annotated, Section 67-4-2004, is amended by adding the following as a new, appropriately designated subdivision:

( ) "Qualified commercial financing entity" means a person that qualified for the credit in § 67-6-224 that primarily finances wholesale and retail transactions related to the purchase or lease of industrial equipment, machinery, vehicles, or goods manufactured by its affiliates and is certified for such designation by the Commissioner of Revenue and the Commissioner of Economic and Community Development. Notwithstanding the provisions of § 47-14-103, a qualified commercial financing entity shall be allowed to charge a rate of interest not to exceed twenty-four percent (24%) per annum;

SECTION 106. Tennessee Code Annotated, Section 67-5-1101, is amended by deleting the last sentence of the section and by substituting instead the following language:

Notwithstanding the foregoing, no tax under this part shall be imposed on:

(1) The shares of stock of any person registered as a broker or a dealer under § 3(a)(4) or (5) of the Securities Exchange Act of 1934, 15 U.S.C. § 78c(a)(4) or (a)(5), or any successor provision, regardless of any related or incidental activities carried on by such person in connection with its business as a broker or a dealer; or

(2) Any qualified financing entity as defined in § 67-4-2004 or its affiliates.

SECTION 107. Tennessee Code Annotated, Title 55, Chapter 2, is amended by adding the following as a new, appropriately designated section:

55-2-\_\_\_\_.

(a) The commissioner is authorized, but not required, to accept credit cards, debit cards, or other similar financial transaction cards in payment of any taxes or fees due in connection with the titling or registration of motor vehicles, and the commissioner may adopt reasonable policies governing the manner of acceptance of such cards. The commissioner is authorized to impose a surcharge or convenience fee upon persons making payment by credit card, debit card, or other similar financial transaction cards to wholly or partially offset, in the aggregate, any discount fees, administrative fees, transaction fees, or other direct fees or costs charged to the department by a third party to facilitate the transaction. The commissioner may enter into appropriate agreements with card issuers or other appropriate parties as needed to facilitate the acceptance of payments authorized by this section. The commissioner also may enter into appropriate agreements with third-party service providers for the acceptance and processing of credit card, debit card, or other similar financial transaction card payments on the commissioner's behalf. Such agreements may authorize the third-party service provider to impose a surcharge or convenience fee upon persons making such payments. The county clerks, when acting as deputies to the commissioner under the laws governing the titling and registration of motor vehicles, are likewise authorized, but not required, to accept credit

cards, debit cards, or other similar financial transaction cards consistent with the authority granted to the commissioner under this section.

(b) When a person elects to make a payment by credit card, debit card, or other similar financial transaction card and a surcharge or convenience fee is imposed as authorized by this section, the payment of the surcharge or convenience fee shall be deemed voluntary and shall not be refundable. No person making any payment by credit card, debit card, or other similar financial transaction card shall be relieved from liability for the underlying obligation, except to the extent that the department realizes final payment of the underlying obligation in cash or the equivalent. If final payment is not made by the card issuer or other guarantor of payment, then the underlying obligation shall survive and the department shall retain all remedies for enforcement that would have applied if the transaction had not occurred.

SECTION 108. Tennessee Code Annotated, Section 55-6-101(a), is amended by deleting from subdivision (2) the language "five dollars (\$5.00)" and by substituting instead the language "five dollars and fifty cents (\$5.50)" and is further amended by deleting from subdivision (3) the language "five dollars (\$5.00)" and by substituting instead the language "five dollars and fifty cents (\$5.50)".

SECTION 109. Tennessee Code Annotated, Section 55-3-103(a)(1), is amended by deleting the following language:

or post office box number if the applicant has no bona fide residential street address,

and by substituting instead the following language:

or post office box number if the applicant has no residential street address, provided, however, that a post office box shall not be sufficient to establish an individual's bona fide residence,

SECTION 110. Tennessee Code Annotated, Section 55-4-102, is amended by deleting the following language:

the name and address of the owner, including the street address and number or route and box number, or post office box number if the owner has no bona fide residential street address;

and by substituting instead the following language:

the full name and bona fide residence of the owner, including the residential street address and number or route and box number, or post office box number if the applicant has no residential street address, provided, however, that a post office box shall not be sufficient to establish an individual's bona fide residence;

SECTION 111. Tennessee Code Annotated, Section 55-4-112, is amended by adding the following as a new, appropriately designated subsection:

( ) Personal buses that are not used in a trade or business shall be subject to the registration fee set out in § 55-4-111(a)(1), Class (B). All buses not subject to the registration fees set out in this section or in § 55-4-111 shall be subject to the registration fees set out in § 55-4-113(a)(2).

SECTION 112. Tennessee Code Annotated, Section 55-3-103(a), is amended by deleting the language "signature of the owner written with pen and ink" and by substituting instead the language "signature of the owner written with pen and ink or captured electronically using a method approved by the commissioner".

SECTION 113. Tennessee Code Annotated, Section 55-4-103(h), is amended by deleting the language "on each fifth anniversary" from the first sentence and by substituting instead the language "not later than each eighth anniversary" and is further amended by deleting the language "any subsequent fifth anniversaries" from the second sentence and by substituting instead the language "any subsequent issuance".

SECTION 114. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following as two new, appropriately designated subdivisions:

( ) "OEM headquarters company" means an original equipment manufacturer that is engaged in the business of manufacturing motor vehicles and qualifies to receive the credit provided in § 67-6-224, or any affiliate thereof. For purposes of this subdivision, "affiliate" has the same meaning as provided in § 67-4-2004;

( ) "OEM headquarters company vehicle" means any motor vehicle subject to registration in accordance with Title 55 that is owned by an OEM headquarters company, whether used for sales or service training, advertising, quality control, testing, evaluation or such other uses as approved by the commissioner, and further including motor vehicles provided by the OEM headquarters company for use by eligible employees and their eligible family members in accordance with policies established by the OEM headquarters company and approved by the commissioner;

SECTION 115. Tennessee Code Annotated, Section 67-6-329(a), is amended by adding the following as a new, appropriately designated subdivision:

( ) OEM headquarters company vehicles;

SECTION 116. Tennessee Code Annotated, Title 55, Chapter 1, is amended by adding the following as a new, appropriately designated section:

55-1-\_\_\_\_.

(1) "OEM headquarters company" means an original equipment manufacturer that is engaged in the business of manufacturing motor vehicles and qualifies to receive the credit provided in § 67-6-224, or any affiliate thereof. For purposes of this subdivision, "affiliate" has the same meaning as provided in § 67-4-2004; and

(2) "OEM headquarters company vehicle" means any motor vehicle subject to registration in accordance with Title 55 that is owned by an OEM headquarters company, whether used for sales or service training, advertising, quality control, testing, evaluation or such other uses as approved by the commissioner, and further including motor vehicles provided by the OEM headquarters company for use by eligible employees and their eligible family members in accordance with policies established by the OEM headquarters company and approved by the commissioner.

SECTION 117. Tennessee Code Annotated, Section 55-4-202(a), is amended by adding the following as a new, appropriately designated subdivision:

( ) OEM headquarters company;

SECTION 118. Tennessee Code Annotated, Section 55-4-202(b)(1), is amended by deleting the following language:

provided under the "dealer," "government service," "disabled," and "national guard" categories

and by substituting instead the following language:

provided under the "dealer", "government service", "disabled", "national guard", and "OEM headquarters company" categories

SECTION 119. Tennessee Code Annotated, Section 55-4-203, is amended by adding the following as a new, appropriately designated subdivision:

( ) OEM headquarters company plates shall be issued free of charge as provided for in § 55-4-3\_\_.

SECTION 120. Tennessee Code Annotated, Section 55-4-209(7), is amended by inserting the language "OEM headquarters company," between "national guard," and "sheriff,".

SECTION 121. Tennessee Code Annotated, Section 55-4-211(c), is amended by adding the following as a new, appropriately designated subdivision:

( ) OEM headquarters company;

SECTION 122. Tennessee Code Annotated, Title 55, Chapter 4, Part 3, is amended by adding the following as a new, appropriately designated section:

55-4-3\_\_.

(a) Registration plates issued under the OEM headquarters company category pursuant to § 55-4-202(a) may be issued to any OEM headquarters company for purposes of registering any OEM headquarters company vehicle. Eligible employees and eligible family members may operate an OEM headquarters company vehicle on any



highway within this state upon displaying thereon plates issued to the OEM headquarters company as provided in this part. A registration plate issued under the OEM headquarters company category may only be transferred to another qualified OEM headquarters company vehicle.

(b) The special purpose OEM headquarters company plates provided for in this section shall contain an appropriate logo, legend, or other design, and shall be designed by the commissioner in consultation with the OEM headquarters company making application for such plate. All special purpose plates issued to any OEM headquarters company shall bear identifying numbers and shall display the word "Tennessee" or an abbreviation thereof.

(c) This registration shall be valid so long as title to the OEM headquarters company vehicle is vested in the OEM headquarters company and shall not be subject to the provisions of this chapter requiring annual registration.

(d) Any OEM headquarters company may make application to the department for the special purpose plates authorized by this section. Such plates shall be free of charge, as provided in § 55-4-203.

(e) Any motor vehicle registered for use as an OEM headquarters company vehicle under the provisions of this section shall, at the termination of such use, be sold at an auction limited to any dealer who sells new or unused motor vehicles of the same line-make as the motor vehicle to be sold.

SECTION 123. Tennessee Code Annotated, Section 55-4-117(a)(2), is amended by deleting the language "three hundred twenty-five (325)" and by substituting instead the language "two hundred twenty-five (225)".

SECTION 124. Tennessee Code Annotated, Section 55-4-221(b)(3), is amended by deleting the language "three hundred twenty-five (325)" and by substituting instead the language "two hundred twenty-five (225)".

SECTION 125. Tennessee Code Annotated, Title 55, Chapter 6, is amended by adding the following language as a new, appropriately designated section:

55-6-\_\_\_\_.

Notwithstanding any provision of this chapter or Chapters 1 through 5 of this title to the contrary, no fee, charge, or other cost otherwise applicable under this chapter or Chapters 1 through 5 of this title shall be charged or assessed against any OEM headquarters company in connection with the titling or registration of any OEM headquarters company vehicle.

SECTION 126. Tennessee Code Annotated, Section 5-8-102(d), is amended by adding the following as a new, appropriately designated subdivision:

( ) Any OEM headquarters company may make application to the Commissioner of Revenue to be exempt from the motor vehicle privilege tax imposed by this section or by private act; provided, however, that the exemption granted under this subdivision shall apply only with respect to OEM headquarters company vehicles. For purposes of this subdivision, the terms "OEM headquarters company" and "OEM headquarters company vehicle" shall have the same meaning as provided in Title 55, Chapter 1.

SECTION 127. Tennessee Code Annotated, Section 55-4-111, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c)(1) There shall be no tax on trailers owned by farmers and used for agricultural purposes or hauling livestock between farm and market.

(2) This section shall not apply to trailers:

(A) Used for the transportation of boats or drawn by an automobile or truck, unless the owner desires to be registered;

(B) Used in the furtherance of a business; or

(C) That are truck trailers registered under § 55-4-113.

(3) This section shall apply to house trailers and rented trailers as defined in this section and to any personal trailer, including a trailer used for the transportation of boats or other trailer or semitrailer drawn by an automobile or truck, that is not required to be registered but that the owner desires to be registered.

SECTION 128. Tennessee Code Annotated, Section 55-16-101(a), is amended by deleting the words "department of safety" and by substituting instead the words "Department of Revenue".

SECTION 129. Tennessee Code Annotated, Section 55-16-106(b), is amended by deleting the words "department of safety" and by substituting instead the words "Department of Revenue".

SECTION 130. Tennessee Code Annotated, Section 55-3-118(b), is amended by deleting the language "whose certificate shall be acknowledged before a notary public" and by substituting instead the language "whose signature shall be acknowledged before a notary public".

SECTION 131. Tennessee Code Annotated, Section 67-5-901, is amended by designating the current language of subsection (b) as subdivision (b)(1) and by adding the following language as a new subdivision (b)(2):

(b)(2) Prosthetic surgical kits, including reusable tools and containers as well as prosthetics and supplies, shall be considered "inventories of merchandise held by merchants and businesses for sale and exchange" as to the typical stock on hand at the premises of the merchant or business owner, or when held for thirty (30) days or less by a customer

for use in surgeries, provided proceeds of the transaction are subject to business tax. Kits leased or consigned to the same customer/user for longer than thirty (30) days, with or without a written lease or consignment agreement, shall be considered leased tangible personal property assessable to the customer/user. The typical stock on hand at the premises of the customer/user shall be considered leased tangible personal property unless otherwise documented. Leased or consigned kits otherwise assessable to the customer/user but withdrawn or relocated from the customer/user's premises by the lessor within thirty (30) days, may be adjusted by filing of an amended tangible personal property schedule for the year assessed according to the applicable statute, if the basis for the adjustment is documented.

SECTION 132. Tennessee Code Annotated, Section 67-4-2109(h), is amended by deleting subdivision (5) and by substituting instead the following:

(5) If the qualified headquarters facility is not utilized as a headquarters facility for a period of at least ten (10) years, beginning from the date of substantial completion of the qualified headquarters facility, the taxpayer shall be subject to an assessment of tax, plus applicable interest, calculated in accordance with this subdivision (h)(5). The amount of tax assessed under this subdivision (h)(5) shall equal the total credit and/or refund taken pursuant to this subsection (h) multiplied by a fraction, the numerator of which is the number of years the facility is not utilized as a headquarters facility and the denominator of which is ten (10). The amount of interest shall be calculated in accordance with § 67-1-801 from the date the facility is no longer utilized as a headquarters facility until the date paid.

SECTION 133. Sections 1 through 17, Sections 23 through 27, and Section 132 of this act shall take effect upon becoming a law and shall apply to all business plans filed on or after July 1, 2009, the public welfare requiring it. Sections 18 through 22 shall be effective January 1, 2008, the public welfare requiring it. Sections 31 and 32 of this act shall take effect upon becoming a law and shall apply to any tax period beginning on or after January 1, 2009, the public welfare requiring it. Sections 28 through 30, Sections 50 through 56, Section 57, Sections 62 through 66, and Sections 69 through 93 of this act shall take effect on July 1, 2009, the public welfare requiring it. Section 58 of this act shall take effect on July 1, 2009 and shall apply to all tickets sold on or after that date, the public welfare requiring it. Sections 67 and 68 shall apply to any applicable transactions occurring on or after January 1, 2009, the public welfare requiring it. Sections 105 and 106 of this act shall take effect upon becoming a law and shall apply to tax years beginning on or after January 1, 2009, the public welfare requiring it. Sections 117 through 124 of this act shall take effect on January 1, 2010, the public welfare requiring it. Section 131 of this act shall take effect January 1, 2010, the public welfare requiring it. All remaining sections of this act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: June 17, 2009**

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
\_\_\_\_\_  
KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 25th day of June 2009**

  
\_\_\_\_\_  
PHIL BREDESEN, GOVERNOR